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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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03/05/2003

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EXAMINER

LEVY, NEIL S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

985820

Applicant(s)

UEDA et al

Examiner

N. C. G. y

Group Art Unit

16/6 20

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 12/5/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 7, 8, 11 and 12 is/are rejected.
- ☒ Claim(s) 3 & 5 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 19
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn, in view of new rejection.

Claims 1, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy-5698210.

Levy (col.8, line 48-55) shows the instant pesticides, insecticides, fungicides, herbicides, plant growth regulators, insect growth regulators, and so on (p.3, lines 9-12), inclusive of (Levy, col.9, lines 20-45) Malathion, resmethrin, dichlorvos, fenitrothion, chlorpyrifos, pyrethroids-of the (p 3-9) instant invention, are provided with water soluble coatings selected to regulate release of the active agent when placed in water (col.10, lines 12-53). Both water soluble and insoluble materials are used, to permit of the time regulated release-fast or continued release-in water. Water-soluble materials are fatty alcohols or acids, fatty alcohol esters of fatty acids (glycolic). The solid formulations (col. 10, last paragraph) are combined into granules or pellets (col. 11, top), then the powders can be placed in (line 49-55, col.11) Water-soluble PVA pouches, packets, capsules-the instant water-soluble enveloping.

This is the instant invention-it is one of many embodiments of the controlled release invention, Levy, all designed to be operative when introduced into water. The coating agent is at 0.001-50% (col.12, lines 30-31), encompassing the instant claim 7, 8 content. Water soluble alcohols are specifically mentioned- 2 propanol, 2 ethyl hexanol- (col.15, lines 54,56). The water-soluble materials permitted short term; the insoluble long term, Mosquito control (col. 15, lines 60-col.16, line 14), using solid insecticides

(B.T. or silica carriers (col. 15, lines 15-33). Example 4, used a multivalent alcohol, PVA. This is the instant invention.

Acetyl alcohol (example 5) was also used. All compositions were stored in Zip loc bags; so the field use as pouches that are water soluble was not tested, but clearly stated as placed into PVA pouches, of varying water solubility; thus inclusive of water soluble. This meets the instant invention as it is claimed.

Claims 1, 3, 5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang et al. 5639465.

A pesticide solid water dispersable granule sprayed with enveloping hydroxy water soluble PVA, dipropylene glycol of 1-24% (col. 2, lines 3-34) or ethylene glycol (col. 1, summary).

Claims 1, 3, 5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al 5639465 in view of Surgant 4544693.

Huang (above) applies the instant water dispersible granules to rice, but does not use the word "enveloped", Surgant, however teaches the desire to limit user exposure, and to provide ~~easy~~ storage, handling, and release of ag chemicals (col.1, lines 8-35) in dust or granule form (col.6 lines 54-65).

Applicant's arguments filed brief of 12/5/02 have been fully considered but they are not persuasive. Applicants' arguments have been considered, and while it is not clear that the definitions presented are in line with the intended use in the instant specification-No example are given for alkanols or fatty acid esters, and no criticality has been shown for the particular compounds favored, we can accept Webster, and


thus, the examples of these compounds cited in the prior art do not meet the definitions, neither do we hold with Murakami. Levy anticipates the invention, in the various forms of solid compositions provided, with similar, if not identical water soluble, non-critical hydroxy compounds. However, the 5698210 patent is seen as more definitive of the embodiments of the instant invention, and of the instant invention as it is claimed. The gel (Chen) compositions are not seen as solid formulation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 308-4628. The fax phone number for the organization where this application or proceeding is assigned is 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy/tgd
February 28, 2003



NEIL S. LEVY
PRIMARY EXAMINER